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REMARKS

This Amendment filed pursuant to a Notice of Appeal dated November 28, 2006 and is accompanied by a Notice of Withdrawal from Appeal, a Request for Continued Examination and an extension of time for three (3) additional months. This Amendment is timely filed within the six (6) month time period for response, which time period is set to expire on April 28, 2006. It is responsive to the Office Action dated May 30, 2006.

Reconsideration of this application is requested in view of the foregoing amendments and the following remarks.

Before this amendment, claims 1-17 have been pending. Applicants have amended claims 1-7. Claims 8-17 are withdrawn from consideration pursuant to a previous election of species. Claims 1-7 are as currently amended are at issue in this response.

Support for the Amendment to claim 1 is found on page 6, paragraph 16. Other amendments address formalities. Thus, no new matter has been added by this amendment.

Rejection of Claims Under 35 U.S.C. 102 or 103

Applicants respectfully traverse the rejection of claims 1, 3, 4 and 6 under 35 USC 103(a) as being unpatentable in view of U.S. Patent No. 6,228,323 (Asgharian); claims 1 and 3-7 in view of U.S. Patent 6,165,954 (Huth) or U.S. Patent 6,323,165.

The Examiner has not established a case for anticipation. The Examiner states that Asgharian does not teach alexidine in a poly(ethylene terephthalate) (PET) container. Therefore does not teach each and every element of the claims.

Regarding obviousness, Applicants submit that even if the Examiner has established a prima facie case of obviousness, the prima facie case can be rebutted. In the present examples, the evidence shows that the antimicrobial efficacy of a compound containing a polyether surfactant and alexidine is far more potent against candida albicans after storage for a period of six months. See Fig. 4. The test formulation containing polyether surfactant and alexidine in PET bottles stored at 40C resulted in a log reduction of over 3.5. The same formulation in high density polyethylene (HDPE) bottles stored at 40C had a log reduction of 1.5. Thus, the solution stored in the PET bottles destroyed more than 100 times as many microbes than the same solution stored in HDPE under the same conditions. The margin of error for this data is

generally speaking to be between 0.5 and 1.0 log orders. The difference in efficacy is more than statistically significant, unexpected and positive. Applicants assert that it establishes a prima facie case of obviousness.

Thus, applicants assert that the present is in condition for allowance. An early and favorable action on the merits is solicited.

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Respectfully submitted,



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